

REMARKS

Claims 1, 3-5, 7-8 and 10-12 were examined. Claims 1 and 8 are amended. Claims 1, 3-5, 7-8 and 10-12 remain in the Application.

The Patent Office rejects claims 1, 3-5, 7-8 and 10-12 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,329,738 of Hung et al. (Hung). The Patent Office objects to the use of the term "superior" in the claims and objects to claims 7 and 10-11 as being dependent upon a rejected base claim. Reconsideration of the pending claims is respectfully requested in view of the above amendments and the following remarks.

A. 35 U.S.C. §102(e): Rejection of Claims 1, 3-5, 7-8 & 10-12

The Patent Office rejects claims 1, 3-5, 7-8 and 10-12 under 35 U.S.C. §102(e) as anticipated by Hung.

With respect to claim 1, the Patent Office states that Hung teaches forming a plurality of three dimensional first structures each including lateral side portions defining a distance from a surface of the substrate (the three dimensional first structures are not identified); introducing a sacrificial material 320 over the area of the substrate including on the lateral side portions of the plurality of first structures; introducing a second structure material 324/326 over the sacrificial material; exposing a portion of the sacrificial on a superior surface of the plurality of first structures (unidentified); and removing the sacrificial material.

Independent claim 1 is not anticipated by Hung, because Hung does not describe forming a plurality of three dimensional first structures each including lateral side portions defining a thickness of the plurality of first structures and a distance from a surface of a substrate; conformally introducing a sacrificial material over the area of the substrate including on the lateral side portions; introducing a second structural material with the sacrificial material; and after introducing a second structural material, exposing a portion of the sacrificial material and a surface of the plurality of first structures. With respect to forming a plurality of three dimensional structures that would coincide with the claim language, Hung discloses first polysilicon layer 306, second polysilicon layer 310, and polysilicon layer 318 (all beneath sacrificial oxide layer 320). According to the description in Hung, none of these structures are formed to include lateral side portion defining a thickness of the plurality of the first structures such that a sacrificial material (e.g., sacrificial oxide layer 320) may be conformally introduced on lateral side portions of the structures. In addition, according to the definition of polysilicon layer 324 as a material referring to

a second structural material in the claims, Hung does not describe, after introducing a second structural material, exposing a portion of the sacrificial material and a surface of the plurality of first structures.

For the above stated reasons, claim 1 is not anticipated by Hung. Claims 3-5 and 7 depend from claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to claim 1, claims 3-5 and 7 are not anticipated by Hung.

Independent claim 8 is not anticipated by Hung, because Hung does not describe a method comprising lithographically patterning a plurality of first structures each including lateral side portions defining a thickness of the plurality of first structures and a distance from a surface of a substrate and conformally introducing a sacrificial material layer over the area of the substrate including on the lateral side portions of the plurality of first structures. As noted above with respect to claim 1, Hung does not describe a plurality of first structures in which a sacrificial material layer may be introduced on lateral side portions thereof.

For the above stated reasons, claim 8 is not anticipated by Hung. Claims 10-12 depend from claim 8 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to claim 8, claims 10-12 are not anticipated by Hung.

Applicants respectfully request that the Patent Office withdraw the rejection to claims 1, 3-5, 7-8 and 10-12 under 35 U.S.C. §102(e).

B. Claim Objections

The Patent Office objects to the term "superior" in the claims. Claims 1 and 8 are amended to remove the term. Applicants respectfully request the Patent Office withdraw the objection.

The Patent Office rejects claims 7, 10 and 11 as being dependent upon a rejected base claim. In view of Applicants' remarks above with respect to independent claims 1 and 8, Applicants believe claims 7, 10 and 11 are now in a condition for allowance. Applicants respectfully request that the Patent Office withdraw the objection to claims 7, 10 and 11.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance, and such action is earnestly solicited at the earliest possible date. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees. If a telephone interview would expedite the prosecution of this Application, the Examiner is invited to contact the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 4/18/05

William V. Babbitt
William Thomas Babbitt, Reg. No. 39,591

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Nedy Calderon
Nedy Calderon

4/18/05
Date